

AMENDMENTS TO THE DRAWINGS:

In response to the Examiner's objection, Applicants submit herewith an attached corrected drawing sheet including changes to FIG. 23. The drawing sheet submitted herewith includes FIG. 23 and replaces the original sheet which included a sole FIG. 23. The corrected drawing sheet is labeled "Replacement Sheet" in accordance with 37 C.F.R. § 1.84(c). In the corrected drawing sheet, the delivery business database has been illustrated and labeled appropriately as, "Delivery Business DB." Approval of these changes to the Drawings is respectfully requested.

REMARKS

In the Office Action mailed November 18, 2004, the Examiner rejected claims 1 and 5-9. The Examiner has indicated that claims 2-4 would be allowable if rewritten into independent form including all of the limitations of the base claim and any intervening claims, in addition to being rewritten to overcome the rejection under 35 U.S.C. § 101. Claims 1-9 have been amended. New claim 10 has been added. Thus, in view of the foregoing, claims 1-10 remain pending for reconsideration, which is respectfully requested. No new matter has been added. The Examiner's rejections are traversed below.

On pages 3-5 of the Office Action, the Examiner objected to claims 1-6 due to alleged various grammatical errors. Applicants have amended the claims accordingly. Withdrawal of the objections is respectfully requested.

On page 5 of the Office Action, the Examiner rejected claims 1-6 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Although Applicants believe that claims 1-6 produce a useful, concrete, and tangible result in their current form, in response to the Examiner's rejection, Applicants have amended independent claim 1 to include the recitation of, "displaying on a computer screen" in the last clause of the claim, for example. Withdrawal of the rejection is respectfully requested.

The Examiner has also rejected claim 9 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. According to the Examiner, the claims are directed to a method that does nothing more than manipulate an abstract idea. Applicants respectfully disagree with the Examiner. Claim 9 is clearly directed to a practical application, as it produces a concrete, tangible and useful result. In other words, the method of claim 9 recites at least one instance of producing something that is concrete, tangible, and useful. For example, the next to last clause of claim 9 is identified by the language, "giving notification to the delivery recipient notification address of said delivery request and of said extracted delivery-pending delivery request." Applicants respectfully submit that an act of giving notification to a delivery recipient clearly represents a concrete and tangible result, that is, the recipient receives notification. Therefore, Applicants respectfully request that the rejection of claim 9 under 35 U.S.C. § 101 be withdrawn.

On page 7 of the Office Action, the Examiner rejected claims 1, 5, 6, and 7 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication 2004/0039712, to Tartal (hereinafter Tartal) in view of Official Notice.

Tartal is directed to a system for delivering an item such as mail or packages to a customer. In the Tartal system, a customer will complete an application form and send it to a mail service provider such as a post office or a private delivery service in order to register his or her name and address. This action occurs before the customer has purchased any items to be delivered. When the customer purchases an item (online or in person) and requests that the item be delivered at the time of purchase, the item is shipped from the seller to the mail service provider nearest the delivery location, for example, a post office nearest to the customer's home). The customer can receive written notification or an email message that informs the customer that the item has arrived. The customer can then send an email to the mail service provider and request delivery of the item.

The present invention allows processing of delivery information to be consolidated. As a result, a user can enjoy benefits of a service that allows him or her to know beforehand when a product will be delivered and to designate how he or she will receive an article. The article can be received according to the user's convenience and preference. As a result, the present invention can lead to increased overall efficiency of the work of a delivery business. For example, when a user A buys a product Q from a company X online and designates himself or herself as a recipient, the company X can request a delivery to the user A to a management server. The server that received the request can then notify the user A of a Uniform Resource Locator (URL) of a webpage in which a form to enter delivery conditions is provided so that the user A can specify the delivery terms. Upon accessing the webpage, the user can enter and/or change delivery terms for each product, and the delivery company can deliver the product to its destination.

The feature of allowing a user to enter delivery terms is identified in claim 1, for example, by the language, "accepting designation of delivery terms on the screen from said delivery recipient after orders of said products."

Applicants respectfully submit that independent claim 1 is patentable over Tartal in view of the Examiner's taking of Official Notice, as Tartal does not teach or suggest the above-identified feature. Official Notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted are well-known, or are of common knowledge in the art capable of instant and unquestionable demonstration as being well-known. As the above-identified feature cannot be characterized as such, Applicants submit that Official Notice cannot be properly taken without documentary evidence. Therefore, Applicants respectfully request that the Examiner provide documentary evidence to support the assertion.

In contrast to the present invention, Tartal does not provide disclosure or suggest allowing a customer (a recipient of an order) to request time and date of delivery for a product. In fact, according to Tartal, after an item arrives at the mail service provider, the customer transmits an email to the mail service provider to request delivery of the item. Thus, Tartal teaches away from the present invention in that requiring the customer to indicate when the item should be delivered by transmitting an email suggests that the customer need not enter a delivery time, for example, for the item to be delivered. There is no need to allow the customer to enter a delivery time and/or date, as the item is delivered when the customer submits an email.

Moreover, in Tartal, the customer has the option of physically traveling to the local mail service provider, entering identification data into a machine in the mail service provider, and then having the machine output the item to the customer. Thus, Tartal, in contrast to the present invention, does not teach or suggest, "a method for managing delivery of products that have been ordered."

Therefore, the present invention is patentable over Tartal in view of the Examiner's taking of Official Notice, as Tartal does not teach or suggest the above identified feature, nor can the Examiner appropriately take Official Notice of the feature for the reason identified above.

Regarding claims 8 and 9, the Examiner has rejected the claims as being unpatentable over Tartal in view of U.S. Patent Application Publication 2002/0046153 to Piggins and Official Notice. As admitted by the Examiner, Tartal does not disclose or suggest searching a storage device for pending deliveries with the same delivery recipient as a delivery recipient of the delivery request, as recited in claim 9, for example. Official Notice cannot be properly taken, for the same reason identified above.

Likewise, Piggins does not disclose or suggest the above-identified feature. Rather, as admitted by the Examiner, Piggins is merely concerned with searching customer profiles. Applicants respectfully submit that searching customer profiles is clearly not tantamount or related to searching a storage device for pending deliveries with the same delivery recipient.

Therefore, neither Piggins nor Tartal teaches or suggests searching a storage device for pending deliveries with the same delivery recipient as a delivery recipient of the delivery request, as recited in claim 9. Claim 8 recites language similar to that of claim 9 and is also patentable over Piggins and Tartal for at least the same reason.

New claim 10 is patentable over all of the cited references, as none of the reference, taken alone or in combination, teaches or suggests, "accepting at a computer delivery terms of

Serial No. 09/769,533

the item wherein said delivery terms are entered by a recipient of the item after the item has been ordered," as recited in new claim 10.

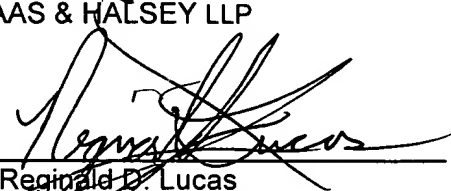
It is submitted that the claims satisfy the requirements of 35 U.S.C. § 101. It is further submitted that the claims are not taught, disclosed or suggested by the references. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the USPTO is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 3/18/05

By: 
Reginald D. Lucas
Registration No. 46,883

1201 New York Avenue, NW, Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501